

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 1094 of 1998

Between:

B.Narayana, S/o B.Narasaiah,
Staff No.E.100248, R/o H.No.3-7-69/1, Kotagalli, Nizamabad,Nizamabad Dist.

... PETITIONER

AND

- 1 The Managing Director, A.P.S.R.T.C., Musheerabad, Hyd.
- 2 The Regional Manager, A.P.S.R.T.C., Nizamabad.
- 3 The Depot Manager, A.P.S.R.T.C., Nizamabad.
- 4 The Labour Court-II, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue order, writ, or directions, particularly one in the writ of certiorari calling for records pertaining to I.D.487/92 Award passed by Labour Court-II, Hyderabad, dt.3-7-1995 and set-aside the finding to the violative of rules of my regulations of corporation and grant back wages to the petitioner in the interest of justice and fair play.

Counsel for the Petitioner: MR.M.C.ADI MURTHY

Counsel for the Respondent Nos.1 to 3: MR.V.T.M.PRASAD

Counsel for the Respondent No.4: GP FOR LABOUR

The Court made the following :

-

-

-

ORAL ORDER:

This writ petition is directed against the Award, dated 3.07.1995, passed by the Labour Court-II, Hyderabad, in I.D.No.487 of 1992, insofar as denial of back wages are concerned.

On 9.06.1991, while the petitioner was discharging his duties as conductor on route Nizamabad-Tallaramadugu, at 5-10 P.M., the officials of the corporation exercised a check and found certain cash and ticket irregularities. Basing on the said irregularities, proceedings were initiated against the petitioner and charge sheet was issued to him calling for his explanation. The petitioner participated in the enquiry conducted and the enquiry officer submitted his report. Basing on the enquiry report, the petitioner was removed from service on 28.02.1992. Aggrieved by the same, the petitioner preferred an appeal before the appellate authority and the same was rejected. Ultimately, the petitioner raised a dispute before the Labour Court-II, Hyderabad, under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short "the Act"), stating that the order of removal, as confirmed by the appellate authority, was bad in law and deserves to be set aside. He also stated that the enquiry was not conducted properly and the punishment of removal was disproportionate to that of the misconduct.

No oral or documentary evidence was adduced on either side before the Labour Court. Further, the petitioner/workman filed a memo to the effect that he was not challenging the correctness of the enquiry report, and requested that the matter may be considered under Section 11-A of the Act. Basing on the same, the Labour Court held that the enquiry conducted by the management was valid. The Court also found that the petitioner failed to follow the rules though he tried to explain that the bus was overloaded and at that time there were 62 passengers traveling in the bus. The Labour Court held that in view of the material on record, the charges framed against the workman are proved. However, insofar as the punishment is concerned, the Court took a lenient view of the matter in view of the fact that the amount involved was only Rs.1.50 ps. and at the time of check the petitioner was in the process of issuing tickets to the passengers. The Court also observed that the punishment of removal from service was disproportionate to that of the misconduct proved against the petitioner, and as such, held that the petitioner is entitled for reinstatement into service with continuity of service and attendant benefits, but without back wages. Aggrieved by the same, the petitioner filed the present writ petition.

I have gone through the entire record, including the award passed by the Labour Court. In fact, the charges framed were grave in nature. The charges are that the petitioner failed to issue ticket to one passenger, who boarded the bus at stage No.6 and alighted at stage No.6/7, in spite of collecting requisite fare from him at the boarding point, and further, he failed to collect fare and issue ticket to one lady passenger, who was traveling from Indalwai to Gadkal (ex.stages 6 to 10/11). Thus, he not only violated the rule 'Issue & Start' and failed to issue ticket despite collecting fare, but also failed to collect fare and issue tickets to a passenger. The said charges cannot be said to be trivial in nature. The only aspect the Labour Court considered was that there were in all 62 passengers at that point of time and as such, the misconduct alleged needs to be taken leniently, and accordingly granted relief while exercising its powers under Section 11-A of the Act. The award of the Labour Court insofar as denial of back wages is concerned, does not call for any interference of this Court.

The writ petition is accordingly dismissed. No costs.

19th November, 2004.

Pan

To

1. The Managing Director, A.P.S.R.T.C., Musheerabad,
Hyderabad.
2. The Regional Manager, A.P.S.R.T.C., Nizamabad.
3. The Depot Manager, A.P.S.R.T.C., Nizamabad.
4. The Labour Court-II, Hyderabad.

5. Two C.Cs to the Govt.Pleader for Labour,
High Court buildings, Hyderabad (OUT).
6. Two C.D.copies